

for this limitation in the claim. Due to the unclear nature of the claims, the claim 1 has been examined to the best extent possible and claim 2 has not been searched on its merits."

The applicant has amended claim 1 as follows immediately below to clarify where the three rods 11, 12 and 13 are located along the elongated member 10 on the hanger. Claim 1 is now believed to be allowable in this regard.

1. (Currently Amended) A ~~hanger~~ hanger attachable to the sides of two spaced vertical members each of which has a first side and a second side that is opposite the first side, the hanger being used for hanging items for display to the sides of the spaced vertical members, the hanger hanger comprising:
 - an elongated portion member having a first end and a second end; ~~hook at one end for hanging items;~~
 - a hook attached to the first end of the elongated member, the hook for hanging the items;
 - a first cross rod having two ends and a midpoint between the two ends, the midpoint of the first cross rod being attached permanently rigidly to the second end of the elongated member ~~portion furthest from the hook;~~
 - a second cross rod having two ends and a midpoint between the two ends, the midpoint of the second cross rod being rotatably ~~that is~~ attached to the elongated ~~portion member~~ so ~~in a manner that it~~ the second cross rod may be rotated about the elongated ~~portion member~~, but and the second cross rod is constrained from moving along the elongated portion; and
 - a third cross rod having two ends and a midpoint between the two ends, the midpoint of the third cross rod being rotatably ~~nearest the hook that is~~ attached to the elongated ~~member so~~ ~~portion in a manner that it~~ the third cross rod may be rotated about the elongated ~~member portion~~, and ~~[[it]]~~ the third cross rod may also be moved along the elongated ~~member portion~~;
 - wherein when the ~~hanger~~ hanger is mounted against the two spaced vertical members the first and third cross rods presses against ~~[[a]]~~ the first side

of the two spaced members and the second cross rod presses against ~~[[a]]~~ the second side of the two spaced members ~~that is opposite the first side~~ to thereby prevent the ~~hanger~~ hanger from sliding along the two spaced members.

Next, by changing the word "balusters" to "two spaced vertical members" 14, 15 in claim 2 proper antecedent basis is established with the language used in claim 1.

The applicant's claim 2 is dependent from claim 1 and does include language for manipulating the elements of claim 1 to attach the hanger to the "two spaced vertical members". The applicant believes he can rightfully add the same type of language to claim 1 to describe how the claimed hanger elements interact to attach the hanger to the two spaced vertical members, but has chosen to put the language in claim 2. If the applicant had instead drafted a method claim he would have to recite the details all the elements of claim 1 along with how the elements are manipulated to attach the hanger to the spaced vertical members. This would be very awkward and would look like a hardware claim.

Then the Examiner rejects claim 1 under 35 USC 102 "as being anticipated by U.S. Patent 4,054,209 to Solomon.". Continuing, the Examiner states that:

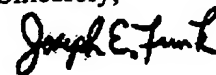
"Solomon discloses a hanger attachable to the sides of two spaced vertical members for hanging items to the sides of members. The hanger has an elongated portion (14 and 16) with a hook (23) at one end for hanging items and a first cross rod (12) attached permanently to the elongated portion furthest from the hook. There is a second cross rod (17) attached to the elongated portion in a manner that it may be rotated about the elongated portion, but is constrained from moving along the elongated portion. There is also a third cross rod (19) nearest the hook that is attached to the elongated portion in a manner that it may be rotated about the elongated portion, and it may also be moved along the elongated portion. The first and third cross rods could press against a first side of the two spaced members and the second cross rod presses against a second side of the two spaced members that is opposite the first side."

The applicant has amended claim 1 to make the structural differences between the '209 Solomon reference and the present invention very clear. As seen in amended claim 1 above the three cross rods each have a midpoint that is attached to the elongated member. The midpoint of the first cross rod is attached rigidly to the second end of the elongated member, the midpoint of the second cross rod is rotatably attached to the elongated member so that the second cross rod may be rotated about the elongated member while being constrained from moving along the elongated portion, and the midpoint of the third cross rod is rotatably attached to the elongated member so that the second cross rod may be rotated about the elongated member while being able to be moved along the elongated member. There is nothing in the '209 Solomon reference that function even remotely in this manner. Thus, amended claim 1 is now believed to be allowable in this regard.

Finally, the Examiner cites US patents 6,634,609 B2 to Zheng, Des. 354,412 to Emery, 382,434 to Klein et al., and Des.471,389 S to Kollner to be made of record and not relied upon but considered pertinent to applicant's disclosure. The applicant has reviewed these patents and does not believe that they suggest or teach the applicant's invention taken singly or in any combination.

With the above argument and the amendment to claim 1 the application is now believed to be in condition for allowance and passage to issuance is respectfully requested. If there are any remaining questions or issues that may be resolved by telephone the Office is invited to contact the undersigned attorney via telephone at (603) 432-8788, via fax at (603) 421-2779, or via e-mail at jfunk777@adelphia.net.

Sincerely,



Joseph E. Funk, Esq.
Reg. No. 25,974
Attorney for Applicant